

**United States Environmental Protection Agency  
Criminal Investigation Division  
Investigative Activity Report**

**Case Number**

0506-0026

**Case Title:**

Ferguson Enterprises Inc.

**Reporting Office:**

Detroit, MI, Resident Office

**Subject of Report:**

Interview of (b)(6), (b)(7)(C) DWSD.

**Activity Date:**

November 9, 2010

**Reporting Official and Date:**

(b)(6), (b)(7)(C) RAC

20-DEC-2010, Signed by: (b)(6), (b)(7) RAC

**Approving Official and Date:**

(b)(6), (b)(7)(C), SAC

22-DEC-2010, Approved by: (b)(6), (b)(7), SAC

**SYNOPSIS**

11/09/2010 - On October 13th and November 9, 2010, U.S. EPA CID Special Agent (SA) (b)(6), (b)(7)(C) interviewed (b)(6), (b)(7)(C) Assistant Director, Detroit Water and Sewerage Department (DWSD) regarding contracts which were awarded during the (b)(6), (b)(7)(C) mayoral administration. (b)(6), (b)(7)(C) was previously interviewed in this investigation by FBI SA (b)(6), (b)(7)(C).

**DETAILS**

On October 13th and November 9, 2010, U.S. EPA CID Special Agent (SA) (b)(6), (b)(7)(C) interviewed (b)(6), (b)(7)(C) Assistant Director, Detroit Water and Sewerage Department (DWSD) regarding contracts which were awarded during the (b)(6), (b)(7)(C) mayoral administration. (b)(6), (b)(7)(C) was previously interviewed in this investigation by FBI SA (b)(6), (b)(7)(C). Also present during the interviews was (b)(6), (b)(7) Deputy Corporation Counsel, City of Detroit Law Department. (b)(6), (b)(7) provided the following information:

(b)(6), (b)(7)(C) had just been promoted to Assistant Director when the change order for WS 623 was authorized. (b)(6), (b)(7)(C) was promoted on October 25, 2005. The change order was for \$7.5 million and was predicated on the fact that the Michigan Department of Transportation was going to be repaving 8 Mile Road. (b)(6), (b)(7)(C) explained that 20,000 feet of water main run along 8 Mile and either the MDOT could perform the water main replacement or the DWSD could do the work under their own contract. The water mains in this area had a history of leaks and were in need of replacement. According to (b)(6), (b)(7)(C) the MDOT couldn't add the replacement of the water mains to their existing contract and it would have taken too long to bid the contract so the decision was made to add the work to WS 623 via a change order. This contract was set to expire at the time and the decision to add the 8 Mile work was discussed at an Executive Management Team meeting with (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C).

(b)(6), (b)(7)(C) explained that pricing on change orders is always higher than the original bid, typically by 5 to 10%. The rates for this change order were submitted by Ferguson Enterprises Inc. (FEI) and were not competitively bid. DWSD Field Engineering staff and IMG representatives reviewed the unit pricing and approved them based in part on the fact that the water mains being replaced in the change order were larger than the original contract and that FEI would be under time restrictions for when the work could be performed. These restrictions were set by the MDOT given traffic congestion on 8 Mile. The original contract rates were set in 1999 when the contract was bid and the change order rates were reflective of the market in 2006. All of these factors were taken into account when deciding to accept FEI's unit pricing for the change order.

This document contains neither recommendations nor conclusions of the EPA.  
It is the property of the EPA and is loaned to your agency;  
it and its contents are not to be distributed outside your agency.

**United States Environmental Protection Agency  
Criminal Investigation Division  
Investigative Activity Report**

**Case Number**

0506-0026

(b)(6), was not aware that (b)(6), (b)(7)(C) was originally part of the 1368 contract until the time of the 15 Mile Road sinkhole. (b)(6), was not aware that FEI replaced (b)(6), (b) on the contract. (b)(6), was in charge of Field Engineering in 2002 and thus was not aware of any hold up of the awarding of the 1368 contract. The 15 Mile sinkhole was managed by (b)(6), although (b)(6), (b) ran the site operations for the first 3 months. (b)(6), was in charge of the Field Engineering team and managed the day to day operations at the sinkhole. The DWSD had a one year deadline to meet and were under a lot of pressure to have the situation remedied. Meetings were held every day at 8 am to review the progress of contractors at the site.

(b)(6), recalled (b)(6), (b) telling him that Mayor (b)(6), (b)(7)(C) was going to visit the site but does not recall a directive to have the DWSD employees leave the site prior to (b)(6), (b)(7) arrival. (b)(6), commented that there were only 5 DWSD employees assigned to the site so (b) didn't think such a directive was necessary. During the November 9, 2010, interview (b)(6), explained that (b) after the October interview with SA (b)(6), (b)(7) (b) checked (b) diary and found an entry for September 1, 2004, which (b) wrote that (b)(6), (b) had come to the sinkhole that day.

(b)(6), does not recall (b)(6), (b) saying that (b) didn't want FEI involved at the site as it was too sophisticated. (b)(6), added that many people thought that the job was too difficult for the small contractors, not just FEI. This concern was based on the time sensitive nature of the job, the fact that the sinkhole repairs were 70 feet below grade, were in close proximity to residences and required significant capital outlay by the contractors. (b)(6), was told by (b)(6), (b)(7)(C) of Inland Waters that they were bringing FEI onto the job in order to satisfy the percent minority participation requirements. (b)(6), (b)(7)(C) never mentioned (b) opinion as to why FEI was on site to (b)(6), (b)(7)(C)

(b)(6), recalls (b)(6), (b)(7) and (b)(6), (b) complaining that the approval of Amendment 4 for 1368 being delayed. (b)(6), response was that (b) would let Inland know as soon as it was approved. (b)(6), may have went to (b)(6), with Inland's concerns but doesn't recall what (b)(6), answer was, if there even was one.

(b)(6), was disappointed when CS 1387 was pulled from the Board of Water Commissioners agenda as (b) was looking for this kind of assistance. (b)(6), characterized the decision to pull the contract was one made by the 5th floor, referring to the Director or Deputy Director of the DWSD. (b)(6), felt the decision was made to punish LES but added that (b) had no collaboration of this suspicion. CS 1347 was a similar contract was later awarded to Somat Engineering.

The DWSD Security group came to (b)(6), asking for fencing and intrusion provisions at various locations to be added to the existing 844A contract. (b)(6), project team raised this request to him, (b) in turn told (b)(6), and explained that they needed to get this work done. This request was discussed at the Executive Management Team meetings where the following options were discussed: issue a change order for 844A adding the work; route the work through existing contracts which still had funding available. These contracts included 825: Haggerty Road Pump Station with Weiss as the contractor and 858 Springwells with Walbridge as the contractor. However neither of these contracts had enough funding available independently and thus the department would have to split the work between the two contracts which was not advantageous. DWSD received a quote from DFT for their subcontractor, WellTech's design which documented a cost of \$2.9 million. (b)(6), told the group that they didn't want to issue a change order on 844A due to the sensitivity

**United States Environmental Protection Agency  
Criminal Investigation Division  
Investigative Activity Report**

**Case Number**

0506-0026

of the contract. (b)(6), knew that there was a pending lawsuit over the awarding of the contract and an investigation by Judge Feikens at the time of the request for additional work. (b)(6), (b) agreed with (b)(6), comment which was made during an Executive Management Team meeting.

The group decided to add the work under contract 812 as it was a convenient and available contract. (b)(6), talked to (b)(6), (b) who agreed to have the work added to (b) contract and as a result was paid \$200,000 in management fees. (b)(6), added that (b)(6), (b) had to get additional insurance and bonding to cover the new work and thus incurred some costs. (b)(6), (b) subbed the work to DFT who then in turn subcontracted with WellTech.

(b)(6), was the Assistant Director at the time that contracts DWS 864/865 were awarded. (b)(6), (b)(6), was in charge of the design and issuance of task orders while (b)(6), (b) (7)(C) oversaw the actual construction work.

(b)(6), produced two letters dated 12/21/06 signed by (b)(6), which were titled Letter of Intent and sent to LES and Inland/Xcel. The contracts had not been approved by City Council at this point but the letters authorized the contracts to go ahead with work on the contract pending council approval. (b)(6), commented that they usually don't issue these letters as council hadn't approved the contracts yet but these were contracts for emergency work and were also very much needed. The letters tell the contractors to go ahead and mobilize for work. (b)(6), added that 99% of the time the contracts are approved by council.

(b)(6), then produced letters dated February 5th and 7th, 2007, which were sent to Inland and authorized the contractor to start work under Task Order No. 1 and No. 2. Similar letters were sent to LES on February 5, 2007. On February 14th and 16th, 2007, letters were sent by (b)(6), to Inland/Xcel directing them to stop all work under the contract. (b)(6), pointed out that LES was not ordered to stop all work on their contract, which (b) finds strange. (b)(6), noted that the council had not approved either contract and the only rationale (b) could think of for the stop work orders was to protect the city from financial liability if the council rejected the contracts. (b)(6), added that was one of the reasons (b) found it strange that LES was allowed to continue work on their contract.

During the interview (b)(6), referenced a diary entry for February 13, 2007, which (b) made referencing the fact that (b)(6), (b) told him, (b)(6), and (b)(6), to hold all tasks on DWS 864 and that no tasks were to be assigned. (b)(6), cannot recall any discussion regarding the directive. (b)(6), later emailed a copy of this entry to SA (b)(6), (b) (7) (See Attached).

(b)(6), also provided SA (b)(6), (b) (7) with copies of emails between (b)(6), and (b)(6), which were forwarded to him, and the version (b) forwarded to (b)(6), directing the issuance of a letter lifting the hold on the contract in April of 2007. (b)(6), pointed out that the February 2007 letters were signed by (b)(6), which was unusual as only the contracting officer has the authority to issue a stop work order, which in this case was (b)(6), (b)(6), does not think (b) saw the letters prior to them being sent as (b) would have sent them to (b)(6), for signature and not allowed (b)(6), to sign them. (b)(6), pointed out that (b) as (b)(6), supervisor, did not have the authority to sign the letters. (b)(6), checked (b) diary for April of 2007 but did not find any notations regarding the decision or directive to lift the hold on the contract.

This document contains neither recommendations nor conclusions of the EPA.  
It is the property of the EPA and is loaned to your agency;  
it and its contents are not to be distributed outside your agency.

**United States Environmental Protection Agency  
Criminal Investigation Division  
Investigative Activity Report**

**Case Number**

0506-0026

(b)(6), (b)(6), (b) did not approach or otherwise discuss the holding up of Amendment 4 on 1368 with (b)(6), (b). Even if (b)(6), (b) had done so (b)(6), (b) does not have the authority to put a hold on the approval of a change order. (b)(6), (b) commented that (b)(6), (b) liked to throw (b) weight around, referencing (b) friendship with Mayor (b)(6), (b). (b)(6), (b) recalls (b)(6), (b) and (b)(6), (b) complaining about (b)(6), (b) (7) invoices on DWS 864.

Prior to the interview (b)(6), (b) checked (b) diary for entries for notes of Executive Management Team meetings where the change orders for 844A, 812 and 747 were discussed but did not find any.

This document contains neither recommendations nor conclusions of the EPA.  
It is the property of the EPA and is loaned to your agency;  
it and its contents are not to be distributed outside your agency.